

CALIFORNIA COASTAL COMMISSION

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28 March 2008

TO: Interested Parties

FROM: Peter M. Douglas, Executive Director

SUBJECT: **Notice of Proposed Changes to the California Coastal Management Program**

Notice of Action

Pursuant to the federal Coastal Zone Management Act regulations (15 CFR §§ 923.80-923.84), the California Coastal Commission hereby provides notice that it is submitting the regulatory changes to the California Coastal Management Program (CCMP) described below to the National Oceanic and Atmospheric Administration's Office of Ocean and Coastal Resource Management (OCRM). The Commission considers the changes described below to be "routine program changes" to the federally-approved California Coastal Management Program. OCRM will review these changes to ensure they do not constitute an amendment as defined in 15 CFR 923.80. Comments may be submitted to OCRM within three weeks of the date of this notice (see below).

Background

The federal Coastal Zone Management Act of 1972 (CZMA) established a voluntary program to encourage states to develop and implement programs to manage the nation's coastal resources. The CZMA is administered by the National Oceanic and Atmospheric Administration (NOAA) within the U.S. Department of Commerce. The CZMA establishes minimum standards for state coastal management programs and provides federal grant assistance and federal consistency authority to states with approved programs. In 1977, the CCMP was approved as meeting the standards of the CZMA. The CCMP includes the California Coastal Act of 1976 (California Public Resources Code, Division 20).

Under the CZMA and its implementing regulations, changes to California's management program can be incorporated into the CCMP either as "routine program changes" or "amendments". The federal regulations define an amendment as "substantial changes in one or more of the following coastal management areas: (1) uses subject to the management program; (2) special management areas; (3) boundaries; (4) authorities and organization; and (5) coordination, public involvement and the national interest." (15 CFR § 923.80(d)). A routine program change is "(f)urther detailing of a State's program that is the result of implementing provisions approved as part of a State's approved management program, that does not result in the type of action described in Section 923.80(d)...." (15 CFR § 923.84).

Proposed Changes

On March 14, 2008, the California Office of Administrative Law approved the Commission's amendments to regulations regarding filing fees and reimbursement of expenses related to the Commission's review of filings. The amendments went into effect for the purposes of state law on March 17, 2008. The Commission conducted public hearings regarding the amendments on July 13, 2007; October 12, 2007; November 14, 2007; and February 8, 2008. The Commission proposes to incorporate the following changes to the Commission's regulations into the CCMP:

Title 14, California Code of Regulations, Section 13055

Section 13055 establishes filing fees and allows the Commission to require reimbursement of expenses for the Commission's processing of filings for Commission review. The current amendments to section 13055 increase the filing fees, modify the method by which they are calculated, apply them to some new categories of filings, index the fees to inflation, and authorize fee reductions for certain categories of projects. As amended, section 13055 establishes filing fees for the submittal of federal consistency certifications pursuant to 16 U.S.C. section 1456(c)(3)(A) or (B). Fees for federal consistency certifications will be determined in the same manner as fees for coastal development permit applications. The filing fees for federal consistency certifications will constitute necessary data and information within the meaning of 15 CFR sections 930.58(a)(2) and 930.76(a)(3). The fees will become enforceable policies of the CCMP upon their incorporation into the CCMP. Section 13055 does not require filing fees for submittals by federal agencies.

Determination of Routine Program Change

Incorporating the amendments to the Commission's regulations into the CCMP will not substantially change the program's enforceable policies or authorities as specified in 15 CFR 923.80(d). The changes to the regulations further detail the CCMP and, therefore, constitute a "routine program change" to the Commission's federally-approved coastal management program as defined in 15 CFR 923.84(a). The amendments to the Commission's regulations do not substantially change: (1) uses subject to the Commission's coastal management program; (2) the criteria or procedures for designating or managing areas of particular concern or areas for preservation or restoration; (3) the coastal zone boundaries; (4) the authorities or organizational structure of the program; or (5) coordination with governmental agencies, the general public, or interest groups.

The changes will constitute enforceable policies of the CCMP, but the changes are not substantial within the meaning of 15 CFR 923.80(d). Coastal Act section 30620(c) authorizes the Commission to require fees and reimbursement of expenses for all filings other than local coastal program submittals.

Concurrent with the issuance of this notice, I am formally notifying NOAA's Office of Ocean and Coastal Resource Management of this determination, requesting their concurrence in this determination, and asking that the changes be incorporated into the federally-approved California Coastal Management Program. In addition, as of today, March 28, 2008, I am notifying interested federal, state and local entities, and other interested parties, of this request for OCRM's concurrence with my determination that the regulatory amendments constitute routine program change.

A copy of the complete text of the regulations as amended is available upon request; contact Anne McMahon, the Commission's Federal Programs Manager, at 415.904.5297 or amcmahon@coastal.ca.gov. It is also available over the internet at: <http://www.coastal.ca.gov/legal/13055-3-17-2008.pdf>.

All comments should be sent to the following address and must be received no later than **April 18, 2008**:

Mr. John King, Division Chief
Coastal Programs Division
Office of Ocean and Coastal Resource Management
National Oceanic and Atmospheric Administration
1305 East West Highway, 11th Floor
Silver Spring, MD 20910

Copies may be sent to the Federal Programs Division of the Coastal Commission:

Anne McMahon, Federal Program Manager
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